

Application Serial No.: 10/044,915

Attorney Docket No. 042846-0312870

In Response to Office Action mailed May 4, 2005

### REMARKS

In response to the Office Action mailed May 4, 2005 (hereinafter "Office Action"), claims 1-3, 5, 8, 10, and 12 have been amended, and claims 15-21 have been newly added. No claims have been cancelled. Therefore, claims 1-21 are pending. Support for the instant amendments is provided throughout the as-filed Specification. Thus, no new matter has been added. In view of the foregoing amendments and following comments, allowance of all the claims pending in the application is respectfully requested.

### DRAWINGS

In the Office Action, at pg. 2, ¶1, the Examiner requests that Applicant submit drawings which overcome the objections alleged by the Draftsperson in the "Notice of Draftsperson's Patent Drawing Review" that accompanied the Office Action. In response, Applicant is submitting herewith a set of formal drawings as replacement sheets. No substantive changes have been made to the drawings. As such, withdrawal of any drawing objections is respectfully requested.

### REJECTIONS UNDER 35 U.S.C. §103

Claims 1-14 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,009,274 to Fletcher *et al.* ("Fletcher"). See Office Action, pg. 2, ¶3. Applicant traverse this rejection for *at least* the reasons that: (1) there is no legally proper teaching, suggestion, or motivation to modify Fletcher in the manner alleged by the Examiner; and (2) assuming arguendo that there was a legally proper teaching, suggestion, or

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motivation to modify Fletcher, the reference would still fail to disclose, teach, or suggest all of the claim elements.

1. There is no legally proper teaching, suggestion, or motivation to modify Fletcher in the manner alleged by the Examiner.

In the Office Action, the Examiner acknowledges that Fletcher does not teach or suggest that “the application server services an application for one or more clients when the application server is the ASU agent.” The Examiner, however, recites:

Official Notice is taken in that any computer system is capable of sending a request, i.e. an [sic] request to execute a program, to another computer system. Therefore, it would be obvious to one skilled in the art at the time of the invention that the ASU agent is capable of handling other clients’ request such that communications between computing systems is achieved.

Applicant disagrees and traverses the Examiner’s application of Official Notice. The Examiner has provided no evidentiary support that this feature is well known within the context of a system and method for enabling updates to applications running on an application server without requiring a server restart, as disclosed and claimed by Applicant.

For at least this reason, the rejection of claims 1-14 under 35 U.S.C. §103(a) over Fletcher is improper, and should be withdrawn.

2. Fletcher fails to disclose, teach, or suggest all of the claim elements

Assuming arguendo that there was a legally proper teaching, suggestion, or motivation to modify Fletcher, the reference would still fail to disclose, teach, or suggest all of the claim elements.

In particular, claim 1, as amended, is directed to a system for enabling updates to applications on a running application server. Claim 1 recites, among other things, “a deployer

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that coordinates an update to the one or more applications on the application server.” At least this feature is not taught or suggested by Fletcher.

Fletcher appears to describe a system and method for automatically updating software components in one or more *end systems* (see, *e.g.*, Abstract). An automatic software updating server sends polling messages to end systems to determine the versions of their software components. The server may then send updates to the end systems as needed (see, *e.g.*, col. 5, lines 18-43). Thus, at best, it appears that Fletcher provides a method of providing software updates to end systems. However, Fletcher is silent with regard to the feature of updating an application on a server, where the application is used by multiple client devices, as disclosed and claimed by Applicant. Claim 1 is allowable over Fletcher for at least this reason.

Independent claims 3, 5, 8, 10, and 12 recite features similar to those described above with reference to claim 1. Accordingly, these claims are not rendered obvious by Fletcher for at least the reasons provided above. Additionally, claims 4, 6, 7, 9, 11, and 15-21 depend from and add features to one of the independent claims. As such, these claims are not rendered obvious by Fletcher at least due to their dependency.

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**CONCLUSION**


Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: August 4, 2005

Respectfully submitted,

By:

  
Bradford C. Blaise  
Registration No. 47,429

**Customer No. 00909**

PILLSBURY WINTHROP SHAW PITTMAN LLP  
P.O. Box 10500  
McLean, Virginia 22102  
Main: 703-905-2000  
Direct Dial: 703-905-2141  
Fax: 703-905-2500